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11 Attorneys for Plaintiff  
12 NICK KOUDIS

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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**  
**FRESNO DIVISION**

NICK KOUDIS,  
v.  
DRACAENA WINES LIMITED LIABILITY  
COMPANY and MICHAEL CHARLES  
BUDD,  
Defendants.

**Case No.:**  
**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT (INJUNCTIVE RELIEF  
DEMANDED)**  
**Demand for Jury Trial**

Plaintiff NICK KOUDIS by and through his undersigned counsel, brings this Complaint against Defendants DRACAENA WINES LIMITED LIABILITY COMPANY and MICHAEL CHARLES BUDD for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff NICK KOUDIS (“Koudis”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Koudis’ original copyrighted work of authorship.

2. Koudis is an American photographer known for images that have a double meaning that poke fun at social insanity. Almost all of his photographs are created using special effects such as miniature or oversized props, or have been digitally manipulated in Photoshop. Koudis spent twenty-five years shooting advertising images in New York City. Since 2000, he has been photographing celebrities in Los Angeles, where he now resides. His work has received the One Show award, Andy Awards for advertising and PDN/Nikon Awards. He has photographed multiple covers for Time magazine.

3. Defendant DRACAENA WINES LIMITED LIABILITY COMPANY (“Dracaena”) is a winery that makes wine from grapes grown at their Paso Robles, California vineyard. Dracaena specializes in producing high quality, small lot wines since 2013, sells wine and merchandise on its website along with booking tastings at either the vineyard or the owners’ residence, virtual tastings, and membership in the “Chalk Club” wine club. At all times relevant herein, Dracaena owned and operated the internet website located at the URL [www.dracaenawines.com](http://www.dracaenawines.com) (the “Website”).

4. Defendant MICHAEL CHARLES BUDD (“Budd”) is one of the owners of Dracaena and the registrant of the Website.

5. Defendants Dracaena and Budd are collectively referred to herein as "Defendants."

6. Koudis alleges that Defendants copied Koudis' copyrighted Work from the internet in order to advertise, market and promote their business activities. Defendants committed the violations alleged in connection with Defendants' business for purposes of advertising and promoting sales to the public in the course and scope of the Defendants' business.

## **JURISDICTION AND VENUE**

7. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

8. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

9. Defendants are subject to personal jurisdiction in California.

10.     Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district. Defendants engaged in

1 infringement in this district, Defendants reside in this district, and Defendants are subject to personal  
2 jurisdiction in this district.

3 **DEFENDANTS**  
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5 11. Dracaena Wines Limited Liability Company is a New Jersey Limited Liability  
6 Company, with its principal place of business at 1761 East Ticonderoga Drive, Fresno, California  
7 93650, and can be served by serving its Registered Agent, Mr. Michael Budd, at the same address.

8 12. Michael Charles Budd is an individual residing in Fresno county, state of California  
9 and can be served at 1761 East Ticonderoga Drive, Fresno, California, 93720.

10 **THE COPYRIGHTED WORK AT ISSUE**  
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12 13. In 2004, Koudis created the photograph entitled “Photographs entitled Doublemint  
13 Twins on Bicycles,” which is shown below and referred to herein as the “Work”.



14. Koudis registered the Work with the Register of Copyrights on January 19, 2015 and was assigned the registration number VA 1-955-048. The Certificate of Registration is attached hereto as **Exhibit 1**.

15. At all relevant times Koudis was the owner of the copyrighted Work at issue in this case.

## **INFRINGEMENT BY DEFENDANTS**

16. Defendants have never been licensed to use the Work at issue in this action for any purpose.

17. On a date after the Work at issue in this action was created, but prior to the filing of this action, Defendants copied the Work.

18. On or about April 7, 2022, Koudis discovered the unauthorized use of his Work on a blog post on the Website entitled “Do You Really Know Your Bubbles.”

19. Defendants copied Koudis' copyrighted Work without Koudis' permission.

20. After Defendants copied the Work, they made further copies and distributed the Work on the Internet to promote the sale of goods and services as part of their small batch vineyard and wine sale business.

21. Defendants copied and distributed Koudis' copyrighted Work in connection with Defendants' business for purposes of advertising and promoting Defendants' business, and in the course and scope of advertising and selling products and services.

22. Koudis' works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

23. Defendants committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

24. Koudis never gave Defendants permission or authority to copy, distribute or display the Work at issue in this case.

25. Koudis notified Defendants of the allegations set forth herein on April 21, 2022 and May 19, 2022. To date, Defendants have failed to respond to Koudis' notices.

**COUNT I  
COPYRIGHT INFRINGEMENT**

26. Koudis incorporates the allegations of paragraphs 1 through 25 of this Complaint as if fully set forth herein.

27. Koudis owns a valid copyright in the Work at issue in this case.

28. Koudis registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

29. Defendants copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Koudis' authorization in violation of 17 U.S.C. § 501.

30. Defendants performed the acts alleged in the course and scope of its business activities.

31. Defendants' acts were willful.

32. Koudis has been damaged.

33. The harm caused to Koudis has been irreparable.

WHEREFORE, the Plaintiff Nick Koudis prays for judgment against the Defendants Dracaena Wines Limited Liability Company and Michael Charles Budd that:

a. Defendants and their officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendants be required to pay Plaintiff his actual damages and Defendants' profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

d. Plaintiff be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;

e. Plaintiff be awarded pre- and post-judgment interest; and

f. Plaintiff be awarded such other and further relief as the Court deems just and  
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**JURY DEMAND**

Plaintiff Nick Koudis hereby demands a trial by jury of all issues so triable.

DATED: November 10, 2022

Respectfully submitted,

/s/ Jonah A. Grossbardt  
JONAH A. GROSSBARDT  
MATTHEW L. ROLLIN  
**SRIPLAW**  
*Attorneys for Plaintiff Nick Koudis*

**SRIPLAW** CALIFORNIA ♦ GEORGIA ♦ FLORIDA ♦ TENNESSEE ♦ NEW YORK